

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

FRANKLIN C. EDMONDS,

Plaintiff,

v.

KELLEY J. CORK and RACHEL L.
EDMONDS,

Defendants.

ORDER

08-cv-158-bbc

This case was dismissed on March 28, 2008, for lack of subject matter jurisdiction over plaintiff Franklin C. Edmonds's attempt to obtain an order from this court compelling defendants to submit financial information in a state court divorce action. Now, plaintiff has filed a notice of appeal from the March 28, 2008 judgment of dismissal. The notice of appeal was filed in the United States Court of Appeals on June 6, 2008 and forwarded to this court. Because plaintiff has not paid the fee for filing his appeal, plaintiff's notice of appeal will be construed as including a request for leave to proceed in forma pauperis on appeal.

A district court has limited authority to deny a request for leave to proceed in forma

pauperis on appeal under 28 U.S.C. § 1915. It may do so only if the plaintiff has not established indigence, § 1915(a)(1); the appeal is in bad faith, § 1915(3); or the plaintiff is a prisoner and has earned three strikes, § 1915(g). Sperow v. Melvin, 153 F.3d 780, 781 (7th Cir. 1998). Plaintiff seems to be indigent and he has not earned three strikes. Nevertheless, he cannot proceed in forma pauperis on appeal because I must certify that his appeal is not taken in good faith.

In his notice of appeal, plaintiff continues to challenge rulings made in a state court action. As I explained to plaintiff in the order dismissing his case, this court lacks the authority to hear his claims. His sole remedy lies in state court. Because the law is clear that the claim plaintiff wishes to raise on appeal is a claim that cannot be heard in federal court, his request for leave to proceed in forma pauperis on appeal will be denied and I will certify that his appeal is not taken in good faith.

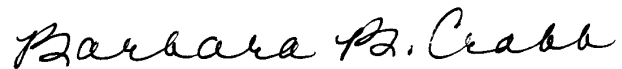
If plaintiff intends to challenge this court's certification that his appeal is not taken in good faith, he has 30 days from the date he receives this order in which to file with the court of appeals a motion for leave to proceed in forma pauperis on appeal. His motion must be accompanied by a copy of the affidavit prescribed in the first paragraph of Fed. R. App. P. 24(a) and a copy of this order.

ORDER

IT IS ORDERED that plaintiff's request for leave to proceed in forma pauperis on appeal is DENIED (dkt. # 7) and I certify that plaintiff's appeal is not taken in good faith.

Entered this 25th day of June, 2008.

BY THE COURT:

A handwritten signature in black ink, reading "Barbara B. Crabb". The signature is written in a cursive, flowing style.

BARBARA B. CRABB
District Judge